

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 755 of 1979

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

PARSHOTTAM KAKUBHAI

Versus

THIRD SPL. LAND ACQ. OFFICER

Appearance:

MR NK MAJMUDAR for Appellants

MR MUKESH A PATEL, AGP for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 16/06/98

ORAL JUDGEMENT

1. This appeal under section 54 of the Land Acquisition Act, 1894, is directed by the appellants against the award passed by Assistant Judge, Narol dated 21st December, 1978, in Land Acquisition Case No.101/78. The lands of the appellants were agricultural lands of village Chandlodia, Tehsil Chandlodia which were acquired by the Executive Engineer, Capital Project, Division No.2, Gandhinagar for providing B.C. Railway Line from

Sabarmati to Gandhinagar. The award has been passed by the Third Special Land Acquisition Officer on 24th October, 1977. The appellants were dissatisfied with the amount of compensation awarded to them for their agricultural lands. They prayed for making reference under section 18 of the Act, 1894 to the District Court and accordingly the reference has been made. Under the impugned award, the Reference Court held that Rs.10/per sq. mt. is a just, reasonable and adequate amount which is to be awarded to the appellants for the acquisition of their lands. The appellants were not satisfied with this award of Reference Court and as such they preferred this appeal before this Court.

Heard the learned counsel for the parties.

2. The Reference Court to determine the just, adequate and reasonable amount of compensation to be awarded to the claimants for compulsory acquisition of their agricultural lands has made reference to the number of sale instances. These sale instances were taken to be of lands of villages Chandlodia and Ghatlodia. After discussing the sale instances, the learned Reference Court relying on the sale deed of the land of Survey No.219 awarded the compensation to the appellants at the rate of Rs.10/- per sq. mt. for the acquisition of their lands. From the statement pertaining to the sale instances of the lands, I find that the land of survey No.219 situated at village Chandlodia was agreed to be sold on 18th December, 1971 at the rate of Rs.10-80ps. per sq. yd.. This land was of village Chandlodia itself and for the purpose of ascertaining what should be the just, adequate and reasonable amount of compensation to be awarded to the appellants for compulsory acquisition of their lands, it was a relevant and material piece of evidence and it has rightly been taken into consideration. It is true that many other sale deeds have been referred to but the evidence which has been considered by the Reference Court was one of those instances of lands near to the land of the appellant.

3. Learned counsel for the appellants contended that the lands of appellants are situated near to Survey No.116 and for the said Survey number, the Land Acquisition Officer has awarded the compensation at the rate of Rs.15/- per sq. mt. The Land Acquisition Officer awarded compensation for this survey number at the rate of Rs.6/- per sq. mt. and for the lands of the appellants the compensation has been awarded at the rate of Rs.4/- per sq. mt.. The learned Reference Court has considered that the land of Survey No.116 is situated

just opposite to the Survey No.254 of Ghatlodia. This land of Survey No.254 of Ghatlodia was sold at the rate of Rs.19-55ps. per sq. yd. on 27th July, 1972, the document of sale aforesaid has been produced at Ex.25 and relying on the said sale deed the Reference Court has awarded the compensation for that land at the rate of Rs.15/- per sq. mt.. The contention of the counsel for the appellants that the land of appellants is situated near to land of Survey No.116 cannot be accepted for the reason that he is unable to point out any material on record in support of this contention. Secondly, the land of Survey No.116 situated in village Ghatlodia whereas the lands of appellants are situated in village Chandlodia. So in the case of appellant the sale instances of village Chandlodia has been taken into consideration. On the basis of these facts on which there is no dispute, I do not find any illegality in the award of the Reference Court to award different rates for compensation for acquisition of land of Survey No.116 of Ghatlodia and lands of appellants of Survey No.97 in village Chandlodia.

4. Now I may consider the next contention raised by the learned counsel for the appellants. It is contended that the sale of the land of Survey No.219 was made on 18th December, 1971 whereas the date of notification of the acquisition of the lands of appellants is of 13th January, 1973 and as such the inflation in the price of lands should have been taken into consideration and notionally the price should have been increased at the rate of 10 to 12% per year but the Reference Court has failed to take into consideration this aspect.

5. I have given my thoughtful consideration to the submission made by the learned counsel for the appellants.

6. The date of notification under section 4 in this case is of 13th January, 1973 but the date of sale deed of the land of Survey No.219 is dated 24th March, 1974. The appellants want to place reliance on the document of agreement to sale but it is well settled that by document - agreement to sale, right, title or interest does not transfer in the land in favour of a person. So only the sale instances which are under the sale deed are to be taken into consideration and for the purpose of considering the question of inflation in the price of lands by passage of time, the date of sale deed has to be taken to be a relevant date and not the date of agreement to sale. If we go by this, then the date of sale deed of this land is 24th March, 1974 and this land has been sold

at the rate of Rs.10-80 ps. per sq. yd.. Notification under section 4 in the present case has been published on 13th January, 1973 and if we go by these dates, I do not find that this contention of the learned counsel for the appellant has any merits.

7. In the result, this appeal fails and the same is dismissed. Interim relief, if any, granted by this Court stands vacated. No order as to costs.

zgs/-